

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

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Department of Personnel and Administrative Reforms

Notification

12-28-77-Div. I

In exercise of the powers conferred by Sub-Section (3) of Section 46 of the Government of Union Territories Act, 1963 (20 of 1963) the Administrator of Goa, Daman and Diu is pleased to make the following Rules amending the Authentication (Orders and Other Instruments) (Goa, Daman and Diu) Rules, 1963, issued under Notification No. 2/ADM/63 dated 20th December, 1963 published in Government Gazette Series I No. 50 dated 20-12-1963 namely:

i) These Rules may be called the Authentication (Orders and Other Instruments) (Goa, Daman and Diu) (First Amendment) Rules, 1977.

ii) After the existing provision in para 2 of 1963 Rules add the following post.

"Joint Secretary"

By order and in the name of the Administrator of Goa, Daman and Diu.

V. J. Menezes, Under Secretary (Personnel).

Panaji, 31st August, 1977.

Notification

1-24(1)/77-Div. I

In exercise of the powers conferred by the proviso to article 309 of the Constitution, read with the Government of India, Ministry of External Affairs letter No. F.7(11)/62-Goa dated the 25th July, 1963, the Administrator of Goa, Daman and Diu is pleased to make the following rules relating to the recruitment to the Common Cadre Group 'C' posts of Drivers under the Government of Goa, Daman and Diu.

1. Short title. — These rules may be called the Goa, Daman and Diu Government, Common Cadre of Drivers Group 'C' (non-ministerial non-gazetted) posts Recruitment Rules 1977.

2. Application. — These rules shall apply to the posts specified in Column 1 of the Schedule to these rules.

3. Number, classification and scale of pay. — The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in column 2 to 4 of the said Schedule.

4. Method of recruitment, age limit and other qualifications. — The method of recruitment of the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the aforesaid Schedule.

Provided that,

(a) The maximum age limit specified in the Schedule in respect of direct recruitment may be relaxed in the case of candidates belonging to the Scheduled Tribes and other special categories in accordance with the orders issued by the Government from time to time

(b) no male candidate, who has more than one wife living and no female candidate, who has married a person having already a wife living, shall be eligible for appointment unless the Government after having been satisfied that there are special grounds for doing so, exempts any such candidate from the operation of this rule.

5. These rules will come into effect from the date of the Notification and will relate to appointments to the various posts made on or after this date.

6. These rules are issued in suppression of the existing rules for the posts.

T. Kipgen

Chief Secretary

Panaji, 11th August, 1977.

SCHEDULE

Name of the post	No. of posts	Classification	Scale of Pay	Whether Selection Post or non-Selection Post	Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation, if any	Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer, and percentage of the vacancies to be filled by various methods	In case of recruitment, by promotion/deputation/transfer, grades from which promotion/deputation/transfer is to be made	If a DPC exists, what is its composition	Circumstances in which U. P. S. C. is to be consulted in making recruitment
1	2	3	4	5	6	7	8	9	10	11	12	13
1. Light vehicle Driver	As sanctioned from time to time	Group 'C' (Non-ministerial non-gazetted)	Rs. 260-6-326-EB-8-350	Selection	30 years (releasable for Govt. servants)	<i>Essential:</i> 1) Middle School or equivalent qualification. 2) Driving licence for light vehicle. 3) Unblemished experience of at least two years in the line.	Age No Qls: Yes (1) & (2)	two years	50% by promotion failing which by direct recruitment 50% by direct recruitment.	<i>Promotion:</i> Class IV employees under the Administration of Goa, Daman and Diu.	Group 'C' D.P.C. Consisting of: — 1. Joint Secretary. 2. Director of Transport. 3. Asstt. Engineer Mechanical) from Govt. Garage/ /P.W.D.	As required under the rules.
2. Heavy vehicle Driver	— do —	— do —	Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400	— do —	— do —	<i>Essential:</i> 1) Middle School or equivalent qualification. 2) Driving licence for heavy vehicle. 3) Unblemished experience of at least two years in the line.	As shown in column 11	— do —	By promotion failing which by direct recruitment.	<i>Promotion:</i> Light vehicle drivers under the Administration of Goa, Daman and Diu with at least 3 years service in the grade and possessing heavy vehicle driving licence.	— do —	— do —

Law and Judiciary Department

Notification

LD/6015/XI/76

The following Central Acts (1) The Labour Provident Funds Laws (Amendment) Act, 1976 (99 of 1976) (2) The Metal Corporation (Nationalisation and Miscellaneous Provisions) Act, 1976 (100 of 1976) (3) The Fifth Schedule to the Constitution (Amendment) Act, 1976 (101 of 1976) which were recently passed by the Parliament and assented to by the President of India on 7-9-76 and published in the Gazette of India Part II, Section I dated 9-9-76 are hereby republished for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 21st December, 1976.

The Labour Provident Fund Laws (Amendment) Act, 1976

AN
ACT

further to amend the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948, the Employees' Provident Funds and Family Pension Fund Act, 1952, the Wealth-tax Act, 1957 and the Income-tax Act, 1961.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title and commencement.*— (1) This Act may be called the Labour Provident Fund Laws (Amendment) Act, 1976.

(2) The provisions of sections 30 and 31 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of August, 1976.

CHAPTER II

Amendment of the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948

2. *Amendment of long title.*— In the long title to the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 (hereinafter referred to as the Coal Mines Provident Fund Act), after the words "Family Pension Scheme", the words "a Deposit-linked Insurance Scheme" shall be inserted. 46 of 1948.

3. *Amendment of section 1.*— For sub-section (1) of section 1 of the Coal Mines Provident Fund Act, the following sub-section shall be substituted, namely:—

"(1) This Act may be called the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948."

4. *Amendment of section 2.*— In section 2 of the Coal Mines Provident Fund Act,—

(i) in clause (c), the words "or the contribution payable in respect of an employee to whom the Insurance Scheme applies" shall be inserted at the end;

(ii) after clause (f), the following clauses shall be inserted, namely:—

'(fa) "Insurance Funds" means the Deposit-linked Insurance Fund established under sub-section (2) of section 3G;

(fb) "Insurance Scheme" means the Coal Mines Deposit-linked Insurance Scheme framed under sub-section (1) of section 3G;"

(iii) clause (ff) shall be re-lettered as clause (fc).

5. *Amendment of section 3A.*— In section 3A of the Coal Mines Provident Fund Act,—

(a) in sub-section (3), after the word, figure and letter "section 3E", the words, figure and letter "and section 3G" shall be inserted;

(b) in sub-section (4), for the words "and the Coal Mines Family Pension Scheme", the words "the Coal Mines Family Pension Scheme and the Insurance Scheme" shall be substituted.

6. *Amendment of section 3C.*— In sub-section (3) of section 3C of the Coal Mines Provident Fund Act, for the words "and the Coal Mines Family Pension Scheme", the words "the Coal Mines Family Pension Scheme and the Insurance Scheme" shall be substituted.

7. *Insertion of new section 3G.*— After section 3F of the Coal Mines Provident Fund Act, the following section shall be inserted, namely:—

'3G. *Coal Mines Deposit-linked Insurance Scheme.*— (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Coal Mines Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to such employees as are covered by the Coal Mines Provident Fund Scheme.

(2) There shall be established, as soon as may be after the framing of the Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee, in relation to whom he is the employer, such amount, not being more than one per cent. of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee, as the Central Government may, by notification in the Official Gazette, specify:

Explanation.— For the purposes of this sub-section,—

(a) the expression "basic wages" has the meaning assigned to it in the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; 19 of 1952.

(b) "dearness allowance" means all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living and shall be deemed to include also the cash value of any food concession allowed to the employee;

(c) "retaining allowance" means an allowance payable for the time being to an employee of any coal mine during any period in which the coal mine is not working, for retaining his services.

(3) The Central Government shall, after due appropriation made by Parliament by law, contribute to the Insurance Fund in relation to each employee covered by the Coal Mines Provident Fund Scheme, an amount representing one-half of the contribution which an employer is required, by sub-section (2), to make.

(4) (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine, to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(b) The Central Government shall, after due appropriation made by Parliament by law, pay into the Insurance Fund such further sums of money representing one-half of the sums payable by the employer under clause (a), to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(5) The Insurance Fund shall vest in the Board and shall be administered by the Board in such manner as may be specified in the Insurance Scheme.

(6) Any scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Third Schedule.

8. *Amendment of section 5.* — In sub-section (2) of section 5 of the Coal Mines Provident Fund Act, for the words "Third Schedule", the words "Fourth Schedule" shall be substituted.

9. *Amendment of section 7.* — In section 7 of the Coal Mines Provident Fund Act, after the words "amend or vary", the words "either prospectively or retrospectively" shall be inserted.

10. *Amendment of section 7A.* — In section 7A of the Coal Mines Provident Fund Act, for the words "two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

11. *Amendment of section 8.* — In sub-section (3) of section 8 of the Coal Mines Provident Fund Act, after the words "Coal Mines Family Pension Scheme", the words "and also in relation to any amount payable under the Insurance Scheme" shall be inserted.

12. *Amendment of section 10.* — In sub-section (1) of section 10 of the Coal Mines Provident Fund Act, after the words "Coal Mines Provident Fund Scheme", the words "or the Insurance Scheme" shall be inserted.

13. *Amendment of section 10E.* — In sub-section (1) of section 10E of the Coal Mines Provident Fund Act, for the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution)", the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution in pursuance of the Coal Mines Provident Fund Scheme and the employer's contribution in pursuance of the Insurance Scheme)" shall be substituted.

14. *Insertion of new sections 11C and 11D.* — After section 11B of the Coal Mines Provident Fund Act, the following sections shall be inserted, namely: —

'11C. *Power to exempt.* — (1) The Central Government may, if requested so to do by the employer, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt any coal mine from the operation of all or any of the provisions of the Insurance Scheme, if it is satisfied that the employees of such coal mine are, without making any separate contribution or payment of premium, in enjoyment of benefits in the nature of life insurance, whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme.

(2) Without prejudice to the provisions of sub-section (1), the Insurance Scheme may provide for the exemption of any person or class of persons employed in any coal mine and covered by that scheme from the operation of all or any of the provisions thereof, if the benefits in the nature of life insurance admissible to such person or class of persons are more favourable than the benefits provided under the Insurance Scheme.

(3) Where, in respect of any person or class of persons employed in any coal mine, an exemption is granted under this section from the operation of all or any of the provisions of the Insurance Scheme (whether such exemption is granted to the coal mine wherein such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such coal mine —

(a) shall, in relation to the benefits in the nature of life insurance, to which any such person or class of persons is entitled, or any insurance fund, maintain such accounts, submit such returns, make such investment, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct;

(b) shall not, at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of life insurance to which any such person or class of persons was entitled immediately before the date of the exemption; and

(c) shall, where any such person leaves his employment and obtains re-employment in any other coal mine, transfer within such time as may be specified in this behalf by the Central Government, the amount of accumulations to the credit of that person in the insurance fund of the coal mine left by him to the credit of that person's account in the insurance fund of the coal

mine in which he is re-employed or, as the case may be, in the Deposit-linked Insurance Fund.

Explanation.—For the purposes of this sub-section “insurance fund” means any fund established by an employer under any scheme for providing benefits in the nature of life insurance to employees, whether linked to their deposits in provident fund or not, without payment by the employees of any separate contribution or premium in that behalf.

(4) Any exemption granted under this section may be cancelled by the authority which granted it, by order in writing, if an employer fails to comply —

(a) in the case of an exemption granted under sub-section (1), with any of the conditions imposed under that sub-section or with any of the provisions of sub-section (3);

(b) in the case of an exemption granted under sub-section (2), with any of the provisions of sub-section (3).

(5) Where any exemption granted under sub-section (1) or sub-section (2) is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in the insurance fund of the coal mine in which he is employed shall be transferred within such time and in such manner as may be specified in the Insurance Scheme to the credit of his account in the Insurance Fund.

11D. *Act to have effect notwithstanding anything contained in Act 31 of 1956.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956.

15. *Insertion of new Third Schedule.*—The Third Schedule to the Coal Mines Provident Fund Act shall be re-numbered as the Fourth Schedule and before the Fourth Schedule as so re-numbered, the following Schedule shall be inserted, namely:—

“THE THIRD SCHEDULE

(See section 3G)

Matters to be provided for in the Coal Mines Deposit-linked Insurance Scheme

1. The employees or class of employees who shall be covered by the Insurance Scheme.

2. The manner in which the accounts of the Insurance Fund shall be kept and the investment of moneys belonging to the Insurance Fund, subject to such pattern of investment as may be determined, by order, by the Central Government.

3. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

4. The nomination of a person to receive the insurance amount due to the employee after his death and the cancellation or variation of such nomination.

5. The registers and records to be maintained in respect of employees; the form or design of any identity card, token or disc for the purpose of iden-

tifying any employee or his nominee or member of his family entitled to receive the insurance amount.

6. The scales of insurance amount which shall not be less than the average balance in the account of the employee concerned in the Fund during a period of three years immediately preceding his death or more than rupees ten thousand.

7. The minimum average balance to be maintained by an employee in the Fund to make him eligible for the benefits under the scheme.

8. The manner in which the amount due to the nominee or the member of the family of the employee under the scheme is to be paid including a provision that the amount shall not be paid otherwise than in the form of a deposit in a savings bank account, in the name of such nominee or member of family, in any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. 5 of 1970.

CHAPTER III

Amendment of the Employees' Provident Funds and Family Pension Fund Act, 1952

16. *Amendment of long title.*—In the long title to the Employees' Provident Funds and Family Pension Fund Act, 1952 (hereinafter referred to as the Employees' Provident Funds Act), for the words “and family pension fund”, the words “, family pension fund and deposit-linked insurance fund” shall be substituted. 19 of 1952

17. *Amendment of section 1.*—For sub-section (1) of section 1 of the Employees' Provident Funds Act, the following sub-section shall be substituted, namely:—

“(1) This Act may be called the Employees Provident Funds and Miscellaneous Provisions Act, 1952.”.

18. *Amendment of section 2.*—In section 2 of the Employees' Provident Funds Act,—

(a) in clause (c), the words “or the contribution payable in respect of an employee to whom the Insurance Scheme applies” shall be inserted at the end;

(b) in clause (ff), after the words “a Scheme”, the words “or the Insurance Scheme, as the case may be,” shall be inserted;

(c) in clause (fff), after the words “any Scheme”, the words “or the Insurance Scheme, as the case may be” shall be inserted;

(d) clause (ia) shall be re-lettered as clause (ic) and before clause (ic) as so re-lettered, the following clauses shall be inserted, namely:—

“(ia) “Insurance Fund” means the Deposit-linked Insurance Fund established under sub-section (2) of section 6C;

(ib) “Insurance Scheme” means the Employees' Deposit-linked Insurance Scheme framed under sub-section (1) of section 6C;”.

19. *Amendment of section 5A.* — In section 5A of the Employees' Provident Funds Act, —

(a) in sub-section (3), after the word, figure and letter "section 6A", the words, figure and letter "and section 6C" shall be inserted;

(b) in sub-section (4), for the words "and the Family Pension Scheme", the words ", the Family Pension Scheme and the Insurance Scheme" shall be substituted.

20. *Amendment of sections 5D and 5E.* — In sub-section (3) of section 5D, and section 5E, of the Employees' Provident Funds Act, for the words "and the Family Pension Scheme", the words ", the Family Pension Scheme and the Insurance Scheme" shall be substituted.

21. *Insertion of new section 6C.* — After section 6B of the Employees' Provident Funds Act, the following section shall be inserted, namely: —

'6C. *Employees' Deposit-linked Insurance Scheme.* — (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.

(2) There shall be established, as soon as may be after the framing of the Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent. of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee as the Central Government may, by notification in the Official Gazette, specify.

Explanation. — For the purposes of this sub-section, the expressions "dearness allowance" and "retaining allowance" have the same meanings as in section 6.

(3) The Central Government shall, after due appropriation made by Parliament by law, contribute to the Insurance Fund in relation to each employee, of any establishment or class of establishments to which this Act applies, an amount representing one-half of the contribution which an employer is required, by sub-section (2), to make.

(4) (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(b) The Central Government shall, after due appropriation made by Parliament by law, pay into the Insurance Fund such further sums of money representing one-half of the sums payable by the employer under clause (a) to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the

cost of any benefits provided by or under that scheme.

(5) The Insurance Fund shall vest in the Central Board and be administered by it in such manner as may be specified in the Insurance Scheme.

(6) The Insurance Scheme may provide for all or any of the matters specified in Schedule IV.

(7) The Insurance Scheme may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme.

22. *Amendment of section 7.* — In sub-section (1) of section 7 of the Employees' Provident Funds Act, for the words "amend or vary the Scheme or the Family Pension Scheme, as the case may be", the words "amend or vary, either prospectively or retrospectively, the Scheme, the Family Pension Scheme or the Insurance Scheme, as the case may be" shall be substituted.

23. *Amendment of section 7A.* — In sub-section (1) of section 7A of the Employees' Provident Funds Act, after the words "Family Pension Scheme", the words "or the Insurance Scheme" shall be inserted.

24. *Amendment of section 8.* — In clause (a) of section 8 of the Employees' Provident Funds Act, —

(a) for the word "Scheme", wherever it occurs, the words "Scheme or the Insurance Scheme" shall be substituted;

(b) for the words "the Fund", the words "the Fund or, as the case may be, the Insurance Fund" shall be substituted.

25. *Amendment of section 8A.* — In section 8A of the Employees' Provident Funds Act, —

(a) in sub-section (1), for the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution)", the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution in pursuance of any Scheme and the employer's contribution in pursuance of the Insurance Scheme)" shall be substituted;

(b) in sub-section (2), after the words "employee's contribution", the words "under any Scheme" shall be inserted.

26. *Amendment of section 10.* — In sub-section (3) of section 10 of the Employees' Provident Funds Act, after the words "Family Pension Scheme", the words "and also in relation to any amount payable under the Insurance Scheme" shall be inserted.

27. *Amendment of section 11.* — In sub-section (1) of section 11 of the Employees' Provident Funds Act, —

(a) in clause (a), —

(i) for the word "Scheme", in both the places where it occurs, the words "Scheme or the Insurance Scheme" shall be substituted;

(ii) after the words "the Fund", the words "or, as the case may be, the Insurance Fund" shall be inserted;

(b) in clause (b), for the words "the provident fund", in both the places where they occur, the words "the provident fund or any insurance fund" shall be substituted;

(c) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—In this sub-section and in section 17, "insurance fund" means any fund established by an employer under any scheme for providing benefits in the nature of life insurance to employees, whether linked to their deposits in provident fund or not, without payment by the employees of any separate contribution or premium in that behalf.

28. *Amendment of section 12.*—In section 12 of the Employees' Provident Funds Act,—

(a) for the word "Scheme", wherever it occurs, the words "Scheme or the Insurance Scheme" shall be substituted;

(b) for the words "the Fund", the words "the Fund or the Insurance Fund" shall be substituted;

(c) for the words "or provident fund", the words "provident fund or life insurance" shall be substituted.

29. *Amendment of section 13.*—In section 13 of the Employees' Provident Funds Act,—

(a) in sub-section (1), for the words "or the Family Pension Scheme", the words "the Family Pension Scheme or the Insurance Scheme" shall be substituted;

(b) in sub-section (2), for the word "Scheme", wherever it occurs, the words "Scheme or the Insurance Scheme" shall be substituted.

30. *Amendment of section 14.*—In section 14 of the Employees' Provident Funds Act,—

(a) for the words "or the Family Pension Scheme", wherever they occur, the words "the Family Pension Scheme or the Insurance Scheme" shall be substituted;

(b) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) An employer who contravenes, or makes default in complying with, the provisions of section 6C, or clause (a) of sub-section (3A) of section 17 in so far as it relates to the payment of inspection charges, shall be punishable with imprisonment for a term which may extend to six months but which shall not be less than one month and shall also be liable to fine which may extend to two thousand rupees:

Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term or of fine only in lieu of imprisonment."

31. *Amendment of sections 14A, 14AA, 14AC and 17B.*—In section 14A, section 14AA, section 14AC and section 17B of the Employees' Provident Funds Act, for the words "the Family Pension Scheme", wherever they occur, the words "the Family Pension Scheme or the Insurance Scheme" shall be substituted.

32. *Amendment of section 14B.*—In section 14B of the Employees' Provident Funds Act,—

(a) for the words "or the Family Pension Fund", the words "the Family Pension Fund or the Insurance Fund" shall be substituted;

(b) for the words "any Scheme", the words "any Scheme or Insurance Scheme" shall be substituted.

33. *Amendment of section 14C.*—In sub-section (1) of section 14C of the Employees' Provident Funds Act, for the words "or the Family Pension Fund", the words "the Family Pension Fund or the Insurance Fund" shall be substituted.

34. *Amendment of section 17.*—In section 17 of the Employees' Provident Funds Act,—

(a) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(2A) The Central Government may, if requested so to do by the employer, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt any establishment from the operation of all or any of the provisions of the Insurance Scheme, if it is satisfied that the employees of such establishment are, without making any separate contribution or payment of premium, in enjoyment of benefits in the nature of life insurance, whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme.

(2B) Without prejudice to the provisions of sub-section (2A), the Insurance Scheme may provide for the exemption of any person or class of persons employed in any establishment and covered by that scheme from the operation of all or any of the provisions thereof, if the benefits in the nature of life insurance admissible to such person or class of persons are more favourable than the benefits provided under the Insurance Scheme."

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Where, in respect of any person or class of persons employed in any establishment, an exemption is granted under sub-section (2A) or sub-section (2B) from the operation of all or any of the provisions of the Insurance Scheme (whether such exemption is granted to the establishment wherein such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such establishment—

(a) shall, in relation to the benefits in the nature of life insurance, to which any such person or class of persons is entitled, or any insurance fund, maintain such accounts, submit such returns, make such investments, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct;

(b) shall not, at any time after the exemption without the leave of the Central Government, reduce the total quantum of benefits in the nature of life insurance to which any such person or class of persons was entitled

immediately before the date of the exemption; and

(c) shall, where any such person leaves his employment and obtains re-employment in any other establishment to which this Act applies, transfer within such time as may be specified in this behalf by the Central Government, the amount of accumulations to the credit of that person in the insurance fund of the establishment left by him to the credit of that person's account in the insurance fund of the establishment in which he is re-employed or, as the case may be, in the Deposit-linked Insurance Fund.”;

(c) in sub-section (4), after clause (b), the clauses shall be inserted, namely: —

“(c) in the case of an exemption granted under sub-section (2A), with any of the conditions imposed under that sub-section or with any of the provisions of sub-section (3A);

(d) in the case of an exemption granted under sub-section (2B), with any of the provisions of sub-section (3A).”;

(d) in sub-section (5), —

(i) for the words, brackets and figure “or sub-section (2)”, the words, brackets, figures and letters “, sub-section (2), sub-section (2A) or sub-section (2B)” shall be substituted;

(ii) for the words “or the family pension fund”, the words “, the family pension fund or the insurance fund” shall be substituted;

(iii) after the words “Family Pension Scheme”, the words “or the Insurance Scheme” shall be inserted;

(iv) after the words “Family Pension Fund”, the words “or the Insurance Fund” shall be inserted.

35. *Insertion of new section 17AA.* — After section 17A of the Employees' Provident Funds Act, the following section shall be inserted, namely: —

“17AA. *Act to have effect notwithstanding anything contained in Act 31 of 1956.* — The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956.”.

36. *Amendment of section 18.* — In section 18 of the Employees' Provident Funds Act, the words “or the Insurance Scheme” shall be inserted at the end.

37. *Amendment of section 19.* — In section 19 of the Employees' Provident Funds Act, in the opening paragraph, for the words “or the Family Pension Scheme”, the words “, the Family Pension Scheme or the Insurance Scheme” shall be substituted.

38. *Insertion of new Schedule IV.* — After Schedule III to the Employees' Provident Funds Act, the following Schedule shall be inserted, namely: —

“SCHEDULE IV

(See section 6C)

Matters to be provided for in the Employees' Deposit-linked Insurance Scheme

1. The employees or class of employees who shall be covered by the Insurance Scheme.

2. The manner in which the accounts of the Insurance Fund shall be kept and the investment of moneys belonging to the Insurance Fund subject to such pattern of investment as may be determined, by order, by the Central Government.

3. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

4. The nomination of a person to receive the insurance amount due to the employee after his death and the cancellation or variation of such nomination.

5. The registers and records to be maintained in respect of employees; the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or member of his family entitled to receive the insurance amount.

6. The scales of insurance amount which shall not be less than the average balance in the account of the employee concerned in the Fund or any other provident fund during a period of three years immediately preceding his death or more than rupees ten thousand.

7. The minimum average balance to be maintained by an employee in the Fund or any other provident fund to make him eligible for the benefits under the scheme.

8. The manner in which the amount due to the nominee of the member of the family of the employee under the scheme is to be paid including a provision that the amount shall not be paid otherwise than in the form of a deposit in a savings bank account, in the name of such nominee or member of family, in any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. 5 of 1970.

9. Any other matter which is to be provided for in the Employees' Deposit-linked Insurance Scheme or which may be necessary or proper for the purpose of implementing that Scheme.”.

CHAPTER IV

Amendment of the Wealth-tax Act, 1957 and the Income-tax Act, 1961

39. *Amendment of Act 27 of 1957.* — In the Wealth-tax Act, 1957, in sub-section (1) of section 5, after clause (xviii), the following clause shall be inserted, namely: —

“(xviiia) any property held —

(a) by the Board of Trustees constituted under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or 46 of 1948.

(b) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, on behalf of the Deposit-linked Insurance Fund esta- 19 of 1952.

blished under section 6C of that Act;”.

40. *Amendment of Act 43 of 1961.*—In the Income-tax Act, 1961,—

(a) in section 10, in clause (25), after sub-clause (iv), the following sub-clause shall be inserted, namely:—

“(v) any income received—

(a) by the Board of Trustees constituted under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or

(b) by the Board of Trustees constituted under the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952, on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act;”;

(b) in section 17, in clause (2), in sub-clause (v), after the words “superannuation fund”, the words, figures and letters “or a Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, or, as the case may be, section 6C of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952” shall be inserted.

41. *Repeal and saving.*—(1) The Labour Provident Fund Laws (Amendment) Ordinance, 1976, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Coal Mines Provident Fund Act, the Employees’ Provident Funds Act, the Wealth-tax Act, 1957 and the Income-tax Act, 1961, as amended by the Ordinance so repealed (including any Scheme framed or notification issued), shall be deemed to have been done or taken under the corresponding provisions of the respective Act aforesaid as amended by this Act.

The Metal Corporation (Nationalisation and Miscellaneous Provisions) Act, 1976

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The Metal Corporation (Nationalisation and Miscellaneous Provisions) Act, 1976

AN

ACT

to provide for the taking over of the management of the undertaking of the Metal Corporation, after such undertaking is deemed to have been transferred to, and re-vested in, the said Corporation, and for the subsequent acquisition of the undertaking of the Metal Corporation for the purpose of enabling the Central Government, in the public interest, to exploit to the fullest extent possible, the zinc and lead deposits in and around Zawar area in the State of Rajasthan and to utilise those minerals in such manner as to subserve the common good, and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the Metal Corporation (Nationalisation and Miscellaneous Provisions) Act, 1976.

(2) Sections 20 and 21 shall come into force at once and the other provisions of this Act shall be deemed to have come into force on the 22nd day of October, 1965.

2. *Definitions.*— In this Act, unless the context otherwise requires, —

(a) “appointed day” means the 2nd day of August, 1976;

(b) “commencement of this Act” means the 22nd day of October, 1965;

(c) “Metal Corporation” means the Metal Corporation of India Limited, a company within the meaning of the Companies Act, 1956, and having its registered office at Calcutta; 1 of 1956.

(d) “Mineral Concession Rules” means the Mineral Concession Rules, for the time being in force, made by the Central Government under the Mines and Minerals (Regulation and Development) Act, 1957; 67 of 1957.

(e) “notification” means a notification published in the Official Gazette;

(f) “prescribed” means prescribed by rules made under this Act;

(g) words and expressions used in this Act and not defined but defined in the Companies Act, 1956, have the meanings respectively assigned to them in that Act. 1 of 1956.

3. *“Undertaking” — meaning of.*— For the purposes of this Act, the undertaking of the Metal Corporation shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined or extracted zinc or lead ores, concentrates and metals, in process or in stock or in transit, cash balances, cash in hand, reserve fund, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the date of commencement of this Act in the ownership, possession, power or control of the Metal Corporation, whether within or without India, and all books of account, registers, maps, sections, drawings, records of survey and all other documents of whatever nature relating thereto; and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind of the Metal Corporation in relation to its undertaking.

CHAPTER II

Taking over of management of the undertaking of the Metal Corporation

4. *Taking over of management of the undertaking of the Metal Corporation —*

(1) On the commencement of this Act, the Metal Corporation of India (Acquisition of Undertaking) Act, 1966, shall stand repealed, and on such repeal, the undertaking of the Metal Corporation, which had

been transferred to, and vested in, the Central Government by virtue of the provisions of section 3 of the Act so repealed, and the undertaking of the Metal Corporation together with all its properties, assets, liabilities and obligations specified in sub-section (1) of section 4 of that Act and such other properties, assets, liabilities and obligations, acquired or incurred, for the purposes of its undertaking, after the 22nd day of October, 1965, which stood, by virtue of the provisions of section 12 of the said Act, transferred to, and vested in, the Government company formed in pursuance of the provisions of section 12 of the Act aforesaid shall, by virtue of the provisions of this Act, be deemed to have been retransferred to, and re-vested in, the Metal Corporation, and, immediately thereafter, the management of the undertaking of the Metal Corporation shall be deemed to have been transferred to, and vested in, the Central Government.

(2) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the undertaking of the Metal Corporation, and in force immediately before the commencement of this Act, shall be deemed to have terminated on such commencement.

(3) All persons in charge of the management, including persons holding offices as directors, managers or in any other managerial capacity specified in section 197A of the Companies Act, 1956, of the Metal Corporation immediately before the commencement of this Act, shall be deemed to have vacated their offices as such on such commencement. 1 of 1956.

(4) Notwithstanding anything contained in any other law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions of sub-section (2) or who ceases to hold office by reason of the provisions contained in sub-section (3), shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of office, as the case may be.

5. *Appointment of Administrator to take over the management of the undertaking.*— (1) The Central Government may, as soon as it is convenient administratively so to do, appoint, with effect from such earlier or later date (not being a date earlier than the commencement of this Act), any person or body of persons (including a Government company, whether in existence at the commencement of this Act or incorporated thereafter) as the Administrator of the undertaking of the Metal Corporation and the Administrator so appointed shall carry on the management of such undertaking for and on behalf of the Central Government.

(2) On the appointment of the Administrator under sub-section (1), the management of the undertaking of the Metal Corporation shall vest in such Administrator and all persons in charge of the mana-

gement of such undertaking immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Administrator all assets, books of account, registers and other documents in their custody relating to the undertaking of the Metal Corporation.

(3) The Central Government may issue such directions (including instructions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator as to his powers and duties as the Central Government may deem desirable and the Administrator may also apply to the Central Government at any time for instructions as to the manner in which the management of the undertaking of the Metal Corporation, or in relation to any other matter arising in the course of such management, shall be conducted.

(4) Where any property, the management of which has vested in the Central Government under section 4, is in the possession, custody or control of any person, such person shall deliver the property to the Central Government forthwith.

(5) Any person who, at the commencement of this Act, has in his possession or under his control any books, papers or other documents relating to the undertaking of the Metal Corporation shall be liable to account for such books, papers and other documents to the Administrator and shall deliver them up to the Administrator or to such person as may be authorised by the Central Government or the Administrator in this behalf.

(6) The Metal Corporation shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the Metal Corporation at the commencement of this Act, all liabilities and obligations of the Metal Corporation subsisting at such commencement and also of all agreements entered into by the Metal Corporation and in force on such commencement, including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the Metal Corporation under which, by virtue of the provisions of this Act, the Central Government has, or will have, or may have, liabilities, and for this purpose, the Central Government shall afford the Metal Corporation all reasonable facilities.

(7) The Administrator shall hold office during the pleasure of the Central Government and shall receive, from the funds of the undertaking of the Metal Corporation such remuneration as may be fixed by the Central Government.

6. *Application of Act.* — (1) Notwithstanding anything contained in the Companies Act, 1956, or in the memorandum or articles of association of the Metal Corporation, so long as the management of the undertaking of the Metal Corporation remains vested in the Central Government, —

1 of 1956.

(a) it shall not be lawful for the shareholders of the Metal Corporation or any other person to nominate or appoint any person to be a director of the Metal Corporation;

(b) no resolution passed at any meeting of the shareholders of the Metal Corporation on or after the commencement of this Act shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of the Metal Corporation or for the appointment of liquidator or receiver in respect of the undertaking thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification, specify in this behalf, the Companies Act, 1956, shall continue to apply to the Metal Corporation in the same manner as it applied thereto before the date of commencement of this Act.

1 of 1956.

CHAPTER III

Acquisition of the undertaking of the Metal Corporation

7. *Vesting of the undertaking of the Metal Corporation in the Central Government.* — (1) On the appointed day, the undertaking of the Metal Corporation, and the right, title and interest of the Metal Corporation in relation to its undertaking, shall stand transferred to, and shall vest absolutely in the Central Government.

(2) Subject to the other provisions contained in this Act, all property included in the undertaking of the Metal Corporation which has vested in the Central Government under sub-section (1) shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other incumbrances affecting it, and any attachment, injunction or any decree or order of a court, tribunal or other authority restricting the use of such property in any manner shall be deemed to have been withdrawn.

Explanation. — For the removal of doubts, it is hereby declared that the mortgagee of any property included in the undertaking of the Metal Corporation, or any other person holding any charge, lien or other interest in, or in relation to, any such property, shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, from the Central Government but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(3) Subject to the other provisions contained in this Act, all contracts and working arrangements which are subsisting immediately before the appointed day and affecting the Metal Corporation shall, in so far as they relate to the undertaking of the Metal Corporation, cease to have effect or be enforceable against the Metal Corporation or any person who was surety or had guaranteed the performance thereof and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectually as if, instead of the Metal Corporation, the Central Government had been named therein or had been a party thereto.

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the appointed day by or against the Metal Corporation or the Central Government or the Government company referred to in section 12 of the Metal Corporation of India (Acquisition of Undertaking) Act, 1966, in relation to the undertaking of the Metal Corporation may, as from that day, be continued and enforced by or against the Central Government or the Government company referred to in section 9, as it might have been enforced by or against the Metal Corporation, the Central Government or the Government company, as the case may be, if this Act had not been promulgated, and shall cease to be enforceable by or against the Metal Corporation, its surety or guarantor.

36 of 1966.

8. *Central Government to be the lessee of the State Government.*—(1) Where the right of the Metal Corporation under any mining lease granted, or deemed to have been granted to it by any State Government or any other person, vest in the Central Government under section 7, the Central Government shall, on and from the date of such vesting, be deemed to have become the lessee of such State Government or such other person, as the case may be, in relation to such mine, as if a mining lease in respect of such mine had been granted to the Central Government, and the period of such lease shall be the entire period for which such lease could have been granted by the State Government or such other person under the Mineral Concession Rules, and, thereupon all the rights under such mining lease, including surface, underground and other rights granted to the lessee shall be deemed to have been transferred to, and vested in, the Central Government.

(2) On the expiry of the term of any lease referred to in sub-section (1), such lease shall, if so desired by the Central Government, be renewed by the State Government or other person on the same terms and conditions on which such lease was held immediately before the appointed day by the Metal Corporation, for the maximum period for which such lease could be renewed under the Mineral Concession Rules.

9. *Power of Central Government to direct vesting of the undertaking of the Metal Corporation in a Government company.*—(1) Notwithstanding anything contained in section 7, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by an order in writing, that the undertaking of the Metal Corporation and the right, title and interest of the Metal Corporation in relation to such undertaking shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of publication of the direction or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the direction.

(2) Where the right, title and interest of the Metal Corporation in relation to its undertaking vest in a Government company under sub-section (1), the

Government company shall, on and from the date of such vesting, be deemed to have become the lessee in relation to the mines of which the Metal Corporation was the lessee as if a mining lease in respect of such mines had been granted to the Government company, and the period of such lease shall be the entire period for which such lease could have been granted under the Mineral Concession Rules; and all the rights and liabilities of the Central Government in relation to such mines shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

(3) The provisions of sub-section (2) of section 8 shall apply to a lease which vests in a Government company as they apply to a lease which has vested in the Central Government and any reference therein to the Central Government shall be construed as a reference to Government company.

(4) Any reference hereafter in this Act to the Government company shall be construed as a reference to the Government company which is appointed as the Administrator under sub-section (1) of section 5, or, as the case may be, the Government company referred to in the direction made under sub-section (1).

CHAPTER IV

Payment of amounts

10. *Payment of amount for deprivation of management.*—For the deprivation of the Metal Corporation of the management of its undertaking, there shall be given, in cash, to the Metal Corporation by the Central Government, an amount, calculated at the rate of rupees eleven lakhs and thirty-nine thousand per annum, for the period commencing on the 22nd day of October, 1965, and ending on the appointed day.

11. *Payment of amount for acquisition of the undertaking.*—For the transfer to, and vesting in, the Central Government, under section 7, of the right, title and interest of the Metal Corporation in relation to its undertaking, there shall be given, in cash, by the Central Government to the Metal Corporation, an amount of rupees one crore and ninety-eight lakhs.

12. *Time of payment.*—(1) The amount determined under section 10, and the amount payable under section 11, shall be given by the Central Government to the Metal Corporation before the expiry of a period of three months from the appointed day (hereafter referred to as the specified period).

(2) The amount referred to in sub-section (1) shall, if not paid before the expiry of the specified period, carry simple interest at the rate of four per cent. per annum, for the period commencing on the date of expiry of the specified period and ending on the date on which payment of such amount is made by the Central Government to the Metal Corporation:

Provided that no interest shall run from the date on which the amount is tendered to the Metal Corporation if the amount so tendered is not accepted by it.

CHAPTER V

Management, etc., of the undertaking of the Metal Corporation

13. *Management, etc., of the undertaking.*—The general superintendence, direction, control and management of the affairs and business of the undertaking of the Metal Corporation, the right, title and interest in relation to which have vested in the Central Government under section 7, shall vest in the Government company specified in the direction made under sub-section (1) of section 9, and, thereupon the Government company shall be entitled to exercise all such powers and do all such things as the Metal Corporation is authorised to exercise and do in relation to its undertaking.

CHAPTER VI

Provisions relating to employees of the Metal Corporation

14. *Provisions relating to employees.*—
(1) Every officer or other employee of the Metal Corporation (except a director or any managerial personnel specified in section 197A of the Companies Act, 1956, or any other person entitled to manage the whole or a substantial part of the business of the Metal Corporation under a special agreement) in the employment of the Metal Corporation immediately before the commencement of this Act shall, in so far as such employee is employed in connection with the affairs of the undertaking of the Metal Corporation, become, as from such commencement, an officer or other employee, as the case may be, of the Central Government or the Government company and shall hold office by the same tenure and at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held under the Metal Corporation if this Act had not been enacted and shall continue to do so until his employment under the Central Government or the Government company is duly terminated or until his remuneration, terms and conditions are duly altered by the Central Government or the Government company:

1 of 1956.

Provided that if the alteration so made is not acceptable to any such officer or other employee, his employment shall be terminated by the Central Government or the Government company on payment of an amount equivalent to—

(a) three months' remuneration, in the case of permanent employees, and

(b) one month's remuneration, in the case of other employees:

Provided further that nothing in this section shall apply to any officer or other employee who has, within thirty days next following the commencement of this Act, by notice in writing to the Central Government or the Government company, as the case may be, intimated his intention of not

becoming an officer or other employee of the Central Government or the Government company.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Metal Corporation to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authorities.

15. *Provident and other funds.*—(1) Where the Metal Corporation has established a provident, superannuation, welfare or other fund for the benefit of the persons employed in its undertaking, the monies relatable to the officers or other employees whose services have become transferred by or under this Act to the Central Government or the Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and vested in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred, under sub-section (1), to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or Government company in such manner as may be prescribed.

CHAPTER VII

Miscellaneous

16. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

17. *Contracts in bad faith may be cancelled or varied.*—(1) If the Central Government is satisfied after such inquiry as it may think fit that any contract or agreement entered into at any time within three years immediately preceding the commencement of this Act between the Metal Corporation or the managing agents of Metal Corporation and any other person, in so far as such contract or agreement relates to the undertaking of the Metal Corporation, has been entered into in bad faith or is detrimental to the interests of the undertaking of the Metal Corporation, it may make an order cancelling (either unconditionally or subject to such conditions as it may think fit to impose) or varying the contract or agreement, and thereafter the contract or agreement shall have effect accordingly:

Provided that no such contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order made under sub-section (1) may make an application to the High Court at Delhi for the variation or reversal

of such order and thereupon such court may confirm, modify or reverse such order.

18. Protection of action taken in good faith.—

(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Administrator or the Government company or any officer or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Government company or any officer or other person authorised by that company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

19. Delegation of powers.— (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by section 22, may also be exercised by such person or persons, as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the persons to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

20. Penalties.— Any person who,—

(a) having in his possession, custody or control any property forming part of any undertaking of the Metal Corporation, wrongfully withholds such property from the Central Government or Government company; or

(b) wrongfully obtains possession of, or retains, any property forming part of the undertaking of the Metal Corporation or wilfully withholds or fails to furnish to the Central Government or the Government company or any person or body of persons specified by that Government or Government company, any document relating to such undertaking which may be in his possession, custody or control or fails to deliver to the Central Government or the Government company or any person or body of persons specified by that Government or Government company, any assets, books of accounts, registers or other documents in his possession, custody or control, relating to the undertaking of the Metal Corporation; or

(c) wrongfully removes or destroys any property forming part of any undertaking of the Metal Corporation or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

21. Offences by companies.— (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be

liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals;

(b) “director”, in relation to a firm, means a partner in the firm.

22. Power to make rules.— (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the monies in any provident or other fund referred to in sub-section (2) of section 15 shall be dealt with;

(b) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

24. Abolition of Tribunal, etc.— (1) On the commencement of this Act, the Tribunal constituted under sub-section

(1) of section 11 of the Metal Corporation of India (Acquisition of Undertaking) Act, 1966, shall stand abolished and every proceeding pending before it, every order made by it and every appeal or application against any such order, shall stand abated, and, on such abatement, the Central Government shall take charge of all records of proceedings, applications, memoranda, registers and other documents maintained by, or in connection with any proceeding before, the Tribunal.

(2) On the commencement of this Act, —

(a) every suit, appeal or other proceeding of whatever nature in relation to the affairs or business of the undertaking of the Metal Corporation instituted before such commencement, and pending on such commencement shall not abate, be discontinued or be, in any way, prejudicially affected by reason of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Metal Corporation and not against the Central Government or the Government company;

(b) every suit, appeal or other proceeding of whatever nature instituted after such commencement but before the appointed day, in relation to the affairs or business of the undertaking of the Metal Corporation, and pending on the appointed day, shall not abate, be discontinued or, in any way, be prejudicially affected by reason of anything contained in this Act, but such suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government or the Government company.

(3) Anything done, any action taken or any contract entered into by the Central Government, Administrator or the Government company at any time during the period commencing on the 22nd day of October, 1965, and ending on the appointed day shall be deemed to have been done, taken or entered into by the Central Government or, as the case may be, the Government company in the due course of management of the undertaking of the Metal Corporation.

25. *Repeal of Ordinance 12 of 1976 and saving.* —

(1) The Metal Corporation (Nationalisation and Miscellaneous Provisions) Ordinance, 1976 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

The Fifth Schedule to the Constitution (Amendment) Act, 1976

AN
ACT

further to amend the Fifth Schedule to the Constitution of India.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows: —

1. *Short title.* — This Act may be called the Fifth Schedule to the Constitution (Amendment) Act, 1976.

2. *Amendment of the Fifth Schedule.* — In the Fifth Schedule to the Constitution, in paragraph 6, in sub-paragraph (2), —

(1) after clause (a), the following clause shall be inserted, namely: —

“(aa) increase the area of any Scheduled Area in a State after consultation with the Governor of that State;”;

(2) after clause (c), the following clause shall be inserted, namely: —

“(d) rescind, in relation to any State or States, any order or orders made under this paragraph, and in consultation with the Governor of the State concerned, make fresh orders redefining the areas which are to be Scheduled Areas;”.

Notification

LD/3886/77

The following Notification received from the Government of India, Ministry of Labour, New Delhi, is hereby republished for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 19th August, 1977.

GOVERNMENT OF INDIA

BHARAT SARKAR

MINISTRY OF LABOUR

(SHRAM MANTRALAYA)

Dated New Delhi, the 28th July, 1977

Notification

G.S.R. — Whereas certain draft rules further to amend the Industrial Disputes (Central) Rules, 1957, were published as required by sub-section (1) of section 38 of the Industrial Disputes Act, 1947 (14 of 1947), at page 373 of the Gazette of India, Part II, section 3, sub-section (i) dated the 5th February, 1977, under the notification of the Government of India in the Ministry of Labour No. G.S.R. 175, dated the 21st January, 1977, inviting objections and suggestions from all persons likely to be affected thereby on or before the expiry of a period of forty-five days from the date of publication of the said notification in the Official Gazette;

And whereas the said Gazette was made available to the public on the 15th February, 1977;

And whereas the objections and suggestions received from the public on the draft have been duly considered;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 38 of the said Act, the Central Government hereby makes the following rules further to amend the Industrial Disputes (Central) Rules, 1957, namely: —

These rules may be called the Industrial Disputes (Central) First Amendment Rules, 1977.

2. In the Industrial Disputes (Central) Rules, 1957:—

(1) in rule 62

(i) in sub-rule (1), after the expression Chapter VA, the expression "Chapter VB" shall be inserted;

(ii) in sub-rule (2), the following proviso shall be inserted at the end, namely:—

"Provided that in the case of the death of a workman, application shall be made in form K-4 by the assignee or heir of the deceased workman".

(2) in Forms K-1 and K-2 for the expression "Chapter VA", the expression "Chapter VA/Chapter VB" shall be substituted;

(3) after Form K-3, the following form shall be inserted, namely;

FORM K-4

[See rule 62(2)]

Application by a person who is an assignee or heir of a deceased workman under sub-section (2) of section 33C of the Industrial Disputes Act, 1947 (14 of 1947),

Before the Central Government Labour Court at...

(1) Name of the applicant/applicants.

(2) Name of the employer

I am/we are the assignee(s)/heir(s) of the deceased workman and am/are entitled to make an application on his behalf.

Shri ..., a former workman of M/s.... of ... is entitled to receive from the said M/s... the money/benefits mentioned in the statement hereto annexed;

It is prayed that the Court be pleased to determine the amount/amounts due to the deceased workman.

Address of workman...

Signature or thumb impression of the ... applicant(s)

Address of applicant(s) ...

Station:

Date:

ANNEXURE

(Herein set out the details of the money due or the benefits accrued together with the case for their admissibility).

Sd/-

L. K. NARAYANAN

Desk Officer

No. S.11012/10/76/DI(A)